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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XE808**

**Notice of Availability of the Final Restoration Plan and Programmatic  
Environmental Impact Statement for Restoration Resulting from the Kalamazoo  
River Natural Resource Damage Assessment related to the Allied Paper,  
Inc./Portage Creek/Kalamazoo River Superfund Site**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of Availability of a Final Restoration Plan and Programmatic Environmental Impact Statement.

**SUMMARY:** The National Oceanic and Atmospheric Administration (NOAA) and the U.S. Fish and Wildlife Service (USFWS) announce the availability of the *Final Restoration Plan and Programmatic Environmental Impact Statement for Restoration Resulting from the Kalamazoo River Natural Resource Damage Assessment* (RP/PEIS).

The purpose of the RP/PEIS is to evaluate, in compliance with the National Environmental Policy Act (NEPA), the potential direct, indirect, and cumulative impacts of implementing the alternative programmatic approaches to restoration in the Kalamazoo River watershed. USFWS, NOAA, and the State of Michigan (collectively referred to as the "Trustees") also present their plan for restoration projects authorized by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), to compensate for injuries to natural resources from polychlorinated

biphenyls (PCBs) released at and from the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site (Superfund Site). The RP/PEIS identifies and evaluates the environmental impacts associated with restoration actions that may be implemented to compensate for injuries to natural resources and associated services.

**ADDRESSES:** Obtaining documents: You may download the RP/PEIS at <https://www.fws.gov/midwest/es/ec/nrda/KalamazooRiver/index.html>. Alternatively, you may request a CD of the document from Lisa Williams, U.S. Fish and Wildlife Service, East Lansing Field Office, 2651 Coolidge Road East Lansing, MI 48823.

**FOR FURTHER INFORMATION CONTACT:** Lisa Williams, USFWS, by email at [lisa\\_williams@fws.gov](mailto:lisa_williams@fws.gov) or by phone at (517) 351-8324.

**SUPPLEMENTARY INFORMATION:** Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601 et seq., parties responsible for releasing hazardous substances into the environment are liable both for the costs of responding to the release (by cleaning up, containing, or otherwise remediating the release) and for damages arising from injuries to publicly owned or managed natural resources resulting from the release. CERCLA's Natural Resource Damage Assessment (NRDA) regulations (43 CFR 11) prescribe the process of assessing the nature and extent of the resulting injury, destruction, or loss of natural resources and the services they provide. Carrying out of the NRDA process also includes determining the compensation required to make the public whole for such injuries, destruction, or loss. CERCLA authorizes certain Federal and State agencies and Indian tribes to act on behalf of the public as Trustees for affected natural resources. Under CERCLA, these agencies and tribes are authorized to assess natural resource injuries and to seek

compensation, referred to as damages, from responsible parties, including the costs of performing the damage assessment. The Trustees are required to use recovered damages for the following purposes only: to restore, replace, or acquire the equivalent of the injured or lost resources and services.

In the Draft RP/PEIS, the Trustees described restoration projects that could compensate for injuries to natural resources from polychlorinated biphenyls (PCBs) released at and from the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site (Superfund Site). These include both general types of restoration projects as well as two specific projects to restore aquatic connectivity on the Kalamazoo River by removing dams in and near Otsego, Michigan.

The notice of availability of the Draft RP/PEIS was published in the **Federal Register** on September 14, 2015 (80 FR 55144). The Draft RP/PEIS presented alternative programmatic approaches to restoration in the Kalamazoo River watershed and two specific projects as just mentioned, as well as an assessment of impacts of implementing the restoration approaches and projects. The Trustees provided the public with 45 days to review and comment on the Draft RP/PEIS. The Trustees also held a public meeting at the Kalamazoo Nature Center on September 15, 2015, to facilitate public understanding of the document and provide opportunity for public comment. The Trustees considered the public comments received, which informed the Trustees' analysis of programmatic alternatives in the Final RP/PEIS. A summary of the public comments received and the Trustees' responses to those comments are addressed in Chapter 7 with details provided in Appendix D of the Final RP/PEIS.

The Trustees prepared this RP/PEIS for restoration in the Kalamazoo River watershed pursuant to both CERCLA NRDA regulations and National Environmental Policy Act (NEPA) regulations. The NEPA process consists of a set of fundamental objectives that include interagency coordination and cooperation, and public participation in the planning and development of projects. NEPA requires Federal agencies to conduct environmental reviews of proposed actions to consider the potential impacts on the environment. The Final RP/PEIS describes restoration projects that could compensate for injuries to natural resources from polychlorinated biphenyls (PCBs) released at and from the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site (Superfund Site).

Industrial activities in the Kalamazoo area have released PCBs into the environment. Recycling of carbonless copy paper at several area paper mills was the primary source of PCB release. Waste from the recycling of such paper conducted at Kalamazoo-area paper mills also contained PCBs, and the waste was disposed of by several methods that resulted in releases of PCBs into the environment. These PCBs have contaminated sediments, the water column, and biota in and adjacent to downstream sections of Portage Creek, the Kalamazoo River, and Lake Michigan. Based on the risks that PCBs pose to the environment and to human health, the U.S. Environmental Protection Agency (EPA) listed the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site on the National Priorities List on August 30, 1990.

PCBs are listed as hazardous substances under CERCLA. EPA and the Michigan Department of Environmental Quality currently describe the Site being addressed by the Superfund remedial investigation as including: (1) five disposal areas and six paper mill properties; (2) a 3-mile stretch of Portage Creek from Cork Street in the City of

Kalamazoo to where the creek meets the Kalamazoo River; and (3) an approximately 80-mile stretch of the Kalamazoo River, from Morrow Dam to Lake Michigan, with adjacent floodplains, wetlands, and in-stream sediments. As defined in the Stage 1 Assessment Report (MDEQ et al. 2005; available at <http://www.fws.gov/midwest/es/ec/nrda/KalamazooRiver>), the Trustees are using the term Kalamazoo River Environment (KRE) to represent the entire natural resource damage assessment area. The KRE encompasses the area being addressed by the Superfund remedial investigations for the site's operable units, along with any area where hazardous substances released at or from the Superfund site have come to be located, and areas where natural resources or the services they provide may have been affected by the Site-related hazardous substances releases (MDEQ et al. 2005). The Trustees expect to have opportunities to settle natural resource damage claims with willing parties. The RP/PEIS provides an ecological framework, with public input, to maximize the benefits of specific restoration projects to the affected resources in the KRE that might be included in or funded by future settlements. The RP/PEIS provides criteria and guidance for Trustees to use in selecting feasible restoration projects.

### **Next Steps**

In accordance with NEPA, a Federal agency must prepare a concise public Record of Decision (ROD) at the time the agency makes a decision in cases involving an EIS (40 CFR 1505.2). The Trustees will issue a ROD pursuant to NEPA regulations at 40 CFR 1505.2. Accordingly, the ROD for the Final RP/PEIS will provide and explain the Trustees' decisions regarding the selection of a preferred alternative. The Trustees will issue the ROD no earlier than 30 days after the Environmental Protection Agency

publishes a notice in the **Federal Register** announcing the availability of the Final RP/PEIS (40 CFR 1506.10).

### **Administrative Record**

In compliance with 40 CFR 1505 et seq., the Trustees will include in the NRDA Administrative Record (Record) documents that the Trustees relied upon during the development of the Final RP/PEIS. The hard copy Record is on file at MDEQ (contact Judith Alfano at (517) 284-5061 or *alfanoj@michigan.gov*), and selected documents from the Record are also accessible at the following website:

*<http://www.fws.gov/midwest/es/ec/nrda/KalamazooRiver>*.

Dated: August 24, 2016.

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Carrie Selberg,

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